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IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

KENNETH BARKER,

Plaintiff,

No. C 16-05647 WHA

v.

AMERICAN EXPRESS COMPANY,

Defendant.

**ORDER DENYING MOTION
TO SUBSTITUTE PARTY
AND GRANTING REQUEST
TO AMEND ANSWER**

On May 11, 2017, defendant moved to substitute party or, in the alternative, to amend its answer filed on January 30, 2017 to make clear that it was answering as American Express Company by striking the words “American Express Centurion Bank, incorrectly identified as.” At a hearing on June 15, 2017, defendant clarified that it withdraws its motion to substitute party, but seeks leave to amend its answer. Plaintiff did not object.

Defendant’s motion to substitute is **DENIED AS WITHDRAWN**. Defendant’s motion to amend its answer to remove “American Express Centurion Bank incorrectly identified as” is **GRANTED**. This makes it clear that defendant American Express Company answered plaintiff’s complaint rather than American Express Centurion Bank and removes all doubt as to which entity is being sued.

Plaintiff has chosen to sue American Express Company and expressly and repeatedly refused to substitute American Express Centurion Bank. If plaintiff cannot sustain his claim against American Express Company, then plaintiff will not be allowed to amend his complaint

1 to substitute in American Express Centurion Bank, having spurned the offer to straighten out
2 the pleadings. American Express Company shall bring a motion for summary judgment by
3 **JULY 21, 2017**, and cooperate with plaintiff's requests to obtain discovery and depositions to
4 meet the issues raised.

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6 **IT IS SO ORDERED.**

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8 Dated: June 19, 2017.

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WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE

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